

Chapter 2.51**ECONOMIC DEVELOPMENT AUTHORITY****Sections:**

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Section 2.51.010 Short title.

The ordinance codified in this chapter may be cited as the "City Economic Development Revenue Bond Law." (Ord. 4976 § 1(a), 1981)

Section 2.51.020 Findings and declarations.

The City Council of the City finds and declares that:

A. There exists within the City critical and persistent unemployment; this condition has adversely affected the economy of the City and the prosperity, health, welfare and safety of its inhabitants and their standard of living and has reached emergency proportions; the continuing decline in industrial employment within the City has contributed to this state of emergency and has been caused by the increased inefficiency, obsolescence and abandonment of many existing industrial and manufacturing facilities in the City; existing industrial and manufacturing enterprises would be induced to remain and expand in the City and new and varied enterprises would be induced to locate in the City if financial assistance were available to them; no reasonable mechanism exists for the provision of such financial assistance and thus no measure exists for the immediate alleviation of the critical problem of unemployment faced by the City.

B. It is declared to be a public purpose and a municipal affair for the City to provide financial assistance to industrial and manufacturing enterprises to locate or remain in the City in order to mitigate unemployment and to develop and expand commerce and industry which is essential to the economic growth and stability of the City and to the full employment, prosperity,

health, welfare and safety of its inhabitants. (Ord. 4976 § 1(b), 1981)

Section 2.51.030 Definitions.

Unless the context otherwise requires, the terms defined in this chapter shall have the following meanings:

"Act" means the California Industrial Development Financing Act, Title 10, commencing with Section 91500, of the California Government Code, as amended.

"Authority" means the economic development authority of the City as created by this chapter.

"Bonds" means any bonds, bond anticipation notes, notes, certificates, debentures or other obligations issued by the authority pursuant to this chapter.

"City" means the City, a political subdivision of the State and a City with home rule powers, duly authorized and existing under the Constitution and laws of the State.

"Cost" means all capital costs incurred by or on behalf of a person in connection with a project, and includes the cost of acquisition, construction, reconstruction, repair, alteration, improvement and extension of any building, structure, facility or other improvement; the cost of land, right-in lands, easements, privileges, agreements, franchises, utility extensions, disposal facilities, access roads and site development necessary, useful or convenient for any project or in connection therewith; interest prior to, during and for a period not exceeding one year after completion of construction; discount on bonds, costs of issuance of bonds, engineering and inspection costs, cost of financial, legal, professional and other estimates and advice, organization, administrative, insurance, operating and other expenses of the authority or any person prior to and during any acquisition or construction, and all such expenses as may be necessary or incident to the financing, acquisition, construction or completion of any project or part thereof, and all such provision for reserves for payment or security of principal of or interest on bonds during or after such acquisition or construction as the authority may determine. Cost with respect to any project shall not mean the cost of providing working capital or inventory.

"Council" means the City Council of the City.

"Person" means any natural person, company, corporation (whether for profit or not), partnership, firm, association, society, trust or other legal entity or group of entities. Person shall include the plural as well as the singular.

"Project" means:

A. The acquisition, construction, reconstruction, repair, alteration, improvement or extension of any building, structure, or facility whether or not in existence or under construction; and

B. The purchase or installation of equipment, machinery, and other personal property, all of which are to be used or occupied by any person in connection with any industrial project for industry, which project may be any industrial or manufacturing factory, mill, assembly plant or fabricating plant. A project may include all appurtenances and incidental facilities such as land, headquarters or office facilities, warehouses, distribution centers, access roads, sidewalks, utilities, railway sidings, trucking and similar facilities, parking facilities, landing strips and other facilities for aircraft, waterways, docks, wharves and other improvements necessary or convenient for the construction, maintenance and operation of any building or structure, or addition thereto.

"Revenues" means receipts, fees, rentals, loan repayments or other payments or income derived from the lease, sale or other disposition of a project, the loan of money, moneys or securities in reserve and insurance funds or accounts or other funds and accounts and income from the investment thereof, and fees, charges or other moneys to be received by the authority in respect of such projects, loans and contracts with persons.

"State" means the State of California. (Ord. 4976 § 1(c), 1981)

Section 2.51.040 Creation of Authority.

There is created and there now exists a body politic and corporate and a political subdivision of the City to be known as the "Economic Development Authority" of the City. The exercise by the Authority of the powers conferred by this chapter shall be deemed and held to be an essential governmental function of the City. (Ord. 4976 § 2(a), 1981)

Section 2.51.050 Ratification of certain prior actions.

By Ordinance No. 4870 of the City, adopted on January 20, 1981, effective February 19, 1981, the Council created an Industrial Development Authority in accordance with the provisions of the Act. Resolution No. 2 of said Authority, adopted on October 6, 1981, effective October 6, 1981, and any contracts, agreements and other actions with respect thereto, are adopted and fully ratified by the Authority. The Authority shall be bound by the resolution, and any contracts, agreements and other actions with respect thereto, as if originally adopted, entered into and taken by it in accordance with the provisions of this chapter. The Authority finds and declares that the resolution fully satisfies the provisions of this chapter, including, without limitation, the standards enumerated in Section 2.51.090. (Ord. 4976 § 2(b), 1981)

Section 2.51.060 Organization of Authority.

The Authority shall be governed by a Board of Directors which shall consist of the members of the Council. The provisions regarding the members, officers, quorum and voting requirements, terms of office, vacancies, meetings and official seal, as adopted by the Industrial Development Authority created by Ordinance No. 4870, shall apply to the Authority. Notwithstanding any provision hereof to the contrary, the Authority may make, amend and repeal bylaws governing procedures and meetings of the board and the duties of its officers, and may make, amend and repeal rules, regulations and policies governing the transaction of its business and the exercise of its powers. (Ord. 4976 § 2(c), 1981)

Section 2.51.070 Powers of Authority.

The Authority shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but without limiting the generality of the foregoing, the powers:

A. To acquire in the name of the Authority by purchase, lease or otherwise, on such terms and conditions and such manner as it may deem proper, any lands or interest therein or other real and personal property for any project;

B. To enter into contracts with a person upon such terms and conditions as the Authority shall determine to be reasonable, including but not limited to reimbursement for the planning, designing, financing, construction, reconstruction, improvement, equipping, furnishing, operation and maintenance of a project and to pay or compromise any claims arising therefrom;

C. To establish and maintain reserve and insurance funds with respect to any assistance authorized by this chapter;

D. To sell, convey or lease to any person all or any portion of a project, for such consideration and upon such terms as the Authority may determine to be reasonable;

E. To mortgage, pledge, assign or otherwise encumber all or any portion of a project or revenues;

F. To grant options to purchase or renew a lease for any project;

G. To contract for and to accept any gifts, grants or loans of funds or property or financial or other aid from any source and to comply, subject to the provisions of this chapter, with the terms and conditions thereof;

H. To charge and collect such fees and charges as the Authority shall determine to be reasonable for the use of its services;

I. To acquire, purchase, manage and operate, hold and dispose of real and personal property or interests therein, take assignments of rentals and leases and make and enter into all contracts, leases, agreements and arrangements necessary or incidental to the performance of its duties;

J. To purchase, acquire and take assignments of notes, mortgages and other forms of security and evidences of indebtedness;

K. To purchase, acquire, attach, seize, accept or take title to any project by conveyance or, by foreclosure, and sell, lease, manage or operate any project for a use specified in this chapter;

L. To borrow money and to issue bonds of the Authority as provided in this chapter, and to provide for the rights of the holders thereof;

M. To make loans to any person for a project, which loans may be secured by loan and security agreements, mortgages, leases, and any other instruments, upon such terms and conditions as the Authority shall deem reasonable, including provision for the establishment and maintenance of reserve and insurance funds;

N. To invest any funds or moneys of the Authority pending the application of such funds or moneys to the purposes of this chapter;

O. To employ consulting engineers, architects, attorneys, real estate counselors, appraisers, and such other consultants and employees, who shall be members of the unclassified service, as may be required in the judgment of the Authority to carry out the purposes of this chapter, and to fix and pay their compensation from funds available to the Authority therefor by negotiation;

P. To do and perform any acts and things authorized by this chapter under, through or by means of its own officers, agents and employees, or by contracts with any person; and

Q. To procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable. (Ord. 4976 § 2(d), 1981)

Section 2.51.080 Bonds--Purpose.

The Authority shall have the power to authorize or provide for the issuance of bonds pursuant to this chapter for the purpose of providing funds to pay all or any part of the cost of any project and to refund bonds issued pursuant to this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and for either or both of:

A. Constructing improvements, additions, extensions, or enlargements of the project or projects in connection with which the bonds to be refunded shall have been issued; and

B. Paying all or any part of the cost of any additional project or projects. (Ord. 4976 § 3(a), 1981)

Section 2.51.090 Bonds--Approval of purpose.

The Authority may adopt a resolution authorizing or providing for the issuance of bonds provided that:

A. An application for assistance under this chapter is submitted to the Authority requesting the issuance of bonds to finance a project. Prior to making any commitment for such assistance, the Authority shall find and declare on the basis of all information reasonably available to it, that such assistance:

1. Will tend to maintain or provide gainful employment for the inhabitants of the City;
2. Shall serve a public purpose by contributing to the prosperity, health, welfare, and safety of the inhabitants of the City;
3. Will stimulate the economy, development or redevelopment of the City;

4. Will result in the creation, or retention, of a significant number of jobs; and
5. The project would not have been undertaken without the issuance of the bonds therefor.

Such findings and determinations shall be conclusive for all purposes of this chapter. The Authority may make the foregoing findings and declarations on a prospective basis prior to the receipt of any such application; provided further, that the proceeds of bonds issued by the Authority are not disbursed to any applicant or applicants until such findings and declarations are made specifically with respect to such applicants or applicants' project or projects.

B. The Authority may issue bonds to refund bonds issued pursuant to this chapter without making any of the foregoing findings. (Ord. 4976 § 3(b), 1981)

Section 2.51.100 Bonds--Limited obligation.

Every issue of bonds shall be a limited obligation of the Authority payable from all or any specified part of the revenues and the moneys and assets authorized in this chapter to be pledged or assigned to secure payment of bonds. Such revenues, moneys or assets shall be the sole source of repayment of such issue of bonds. Bonds issued under the provisions of this chapter shall not be deemed to constitute a debt or liability of the State, the City or any political subdivision thereof, or a pledge of the faith and credit of the State, the City or any political subdivision thereof, but shall be payable solely from specified revenues, moneys and assets. The issuance of bonds shall not directly, indirectly, or contingently obligate the State, the City or any political subdivision thereof, to levy or pledge any form of taxation or to make any appropriation for their payment.

All bonds shall contain on the face thereof a statement to the following effect: This bond does not constitute a debt or general obligation of the State of California, the City of Riverside or any political subdivision thereof. Neither the faith and credit nor the taxing power of the State of California, the City of Riverside or any political subdivision thereof is pledged to the payment of the principal of, or premium or interest on this bond. (Ord. 4976 § 3(c), 1981)

Section 2.51.110 Bonds--Issuance.

Bonds may be issued as serial bonds, term bonds, installment bonds or pass-through certificates or any combination thereof. No election shall be required for the issuance of any bonds pursuant to this chapter. Bonds shall be authorized by resolution of the Authority, may be issued in one or more series, and shall bear such date or dates, mature at such time or times, bear interest at such fixed or variable rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in lawful money of the United States of America at such place or places, be subject to such terms of redemption (with or without premium) and have such other terms and conditions as such resolution, or any indenture or other instrument authorized by such resolution to be entered into by the authority, may provide. Bonds may be sold at either a public or private sale and for such prices as the Authority shall determine. Pending preparation of definitive bonds, the Authority may issue temporary bonds, which shall be exchanged for such definitive bonds when prepared. (Ord. 4976 § 3(d), 1981)

Section 2.51.120 Bonds--Negotiability.

Any provision of any law to the contrary notwithstanding, any bond issued pursuant to this chapter shall be fully negotiable within the meaning and for all purposes of the California Commercial Code, and each holder or owner of such a bond, or of any coupon appertaining thereto, by accepting such bond or coupon shall be conclusively deemed to have agreed that

such bond or coupon is and shall be fully negotiable within the meaning and for all purposes of said commercial law. (Ord. 4976 § 3(e), 1981)

Section 2.51.130 Bonds--Covenants with bondholders.

Any resolution authorizing any bonds or any issue of bonds, or any indenture or other instrument authorized by such resolution to be entered into by the Authority, may contain provisions respecting any of the following terms and conditions which shall be a part of the contract with the holders of such bonds:

A. The terms, conditions and form of such bonds and the interest, premium if any, and principal to be paid thereon;

B. Limitations on the uses and purposes to which the proceeds of sale of such bonds may be applied, and the pledge or assignment of such proceeds to secure the payment of such bonds;

C. Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

D. The setting aside of reserves, sinking funds and such other funds as are necessary and the source, custody, investment, security, regulation, application and disposition thereof;

E. The pledge or assignment of all or any part of the revenues and the use and disposition thereof, subject to such agreements with the holders of bonds as may then be outstanding;

F. Specification of the acts or omissions to act which shall constitute a default in the duties of the authority or a person to holders of such bonds, and providing the rights and remedies of such holders in the event of default, including any limitations on the right of action by individual bondholders;

G. The appointment of a trustee or trustees, fiscal or escrow agent or agents to act on behalf of the Authority and the holders of its bonds, the pledge or assignment of loans, deeds of trust, mortgages and any other contracts to such trustee or agent, and the vesting of rights, duties and powers in such trustee or agent;

H. The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of such bonds the holders of which must consent thereto, and the manner in which such consent may be given;

I. The custody, security, use, expenditure, investment or application of the proceeds of bonds;

J. The use, regulation, operation, maintenance, insurance or disposition of all or any part of any project;

K. Payment of the principal of and interest on the bonds, the sources and methods of payment thereof, the rank or priority of any such bonds as to any lien or security, or the acceleration of the maturity of any such bonds;

L. The use and disposition of any moneys of the Authority, including all revenues or other moneys derived or to be derived from any project;

M. Mortgaging, pledging, assigning or depositing all or any part of the revenues or other moneys of the Authority or all or any part of a project to secure the payment of the principal of and interest on the bonds and the powers and duties of any trustee or agent with regard thereto;

N. The rents, fees or other charges for the use of any project, including any parts thereof theretofore constructed or acquired and any parts, replacements or improvements thereof thereafter constructed or acquired, and the fixing, establishment, collection and enforcement of the same; and

O. Any other provisions which the Authority may deem reasonable and proper for the purposes of this chapter and the security of the bondholders.

All such provisions of any resolution, indenture or other instrument shall constitute valid

and legally binding contracts between the Authority and the several holders of the bonds, regardless of the time of issuance of such bonds. (Ord. 4976 § 3(f), 1981)

Section 2.51.140 Bonds--Pledge of revenues.

Any pledge of revenues or other moneys or assets pursuant to the provisions of this chapter shall be valid and binding from the time such pledge is made. Revenues, moneys and assets so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any indenture or other instrument by which a pledge is created need be filed or recorded, however, copies of such resolution, indenture or other instrument shall be retained by the authority. (Ord. 4976 § 3(g), 1981)

Section 2.51.150 Bonds--Legal investments.

Notwithstanding any restriction contained in any other law, the State and all political subdivisions and public agencies of the State, their officers, boards, commissioners, departments or other agencies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all executors, administrators, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the State, may properly and legally invest any sinking funds, moneys or other funds, including capital, belonging to them or within their control in any bonds issued by the authority under the provisions of this chapter. Such bonds are made obligations which may properly and legally be deposited with and received by any State or municipal officers or agency of the State for any purpose for which the deposit of bonds or other obligations of the State is now or may hereafter be authorized by law. (Ord. 4976 § 3(h), 1981)

Section 2.51.160 Bonds--Purchase.

The Authority shall have the power out of any funds available therefor to purchase its bonds. The Authority may hold, pledge, cancel, or resell such bonds, subject to and in accordance with agreements with the bondholders. (Ord. 4976 § 3(i), 1981)

Section 2.51.170 Bonds--Refunding.

A. The proceeds of bonds issued for the purpose of refunding any outstanding bonds may, in the discretion of the Authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds, either at their earliest or any subsequent redemption date or dates or upon the purchase or retirement at the maturity thereof and may, pending such application, be placed in escrow, to be applied to such purchase or retirement at maturity or redemption on such date or dates as may be determined by the Authority.

B. Pending use for purchase, retirement at maturity or redemption of outstanding bonds, any proceeds held in escrow pursuant to Subsection A of this section may be invested and reinvested as provided in the resolution, indenture or other instrument. Any interest or other increment earned or realized on any such investment may be applied to the payment of the outstanding bonds to be refunded or to the payment of interest on the refunding bonds. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and any interest or increment earned or realized from the investment thereof may be returned to

the Authority to be used by it for any lawful purpose.

C. All bonds issued pursuant to this section shall be subject to the provisions of this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter. (Ord. 4976 § 3(j), 1981)

Section 2.51.180 Bonds--Validity.

A. The validity of the authorization and issuance of any bonds is not dependent on and shall not be affected in any way by any proceedings taken by the Authority for the making of any loan or the entering into of any agreement, or by the failure to make any loan or enter into any agreement, for which bonds are authorized to be issued under this chapter.

B. Any omission of any director of the Authority in proceedings under this chapter or any other defect in the proceedings shall not invalidate such proceedings or the bonds issued pursuant to this chapter. (Ord. 4976 § 3(k), 1981)

Section 2.51.190 Liberal construction.

This chapter being necessary for the prosperity, health, welfare and safety of the City and its inhabitants shall be liberally construed to effect its purposes. (Ord. 4976 § 4(a), 1981)

Section 2.51.200 No personal liability.

Neither the directors of the Authority, members of the Council, the officers or employees of the City, nor any person executing any bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof. (Ord. 4976 § 4(b), 1981)

Section 2.51.210 Other laws inapplicable.

This chapter provides a complete, additional and alternative method for the matters authorized in this chapter, and the powers conferred under this chapter are supplemental and additional to the powers conferred by other laws. The approval of projects and the issuance of bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds. The purposes authorized may be effectuated and bonds may be issued for any such purposes under this chapter notwithstanding that any other law may provide for such purposes or for the issuance of bonds for like purposes and without regard to the requirements, restrictions, limitations, or other provisions contained in any other law.

To the extent that the provisions of this chapter are inconsistent with the provisions of any general statute or special act or parts thereof, the provisions of this chapter shall be deemed controlling. (Ord. 4976 § 4(c), 1981)